

March 6, 2017

Via E-Mail and Federal Express

Honorable Judge Stuart M. Bernstein
United States Bankruptcy Court
Southern District of New York
One Bowling Green
New York, New York 10004-1408

Re: In re Bernard L. Madoff - Case No. 08-01789 (SMB)
Irving H. Picard v. David Markin - Adv. Pro. No. 10-05224 (SMB)

Dear Judge Bernstein:

This letter is in response to the Trustee's letter dated March 6, 2017 opposing resolution of this adversary proceeding by summary judgment and seeking to prolong the case to conduct unnecessary discovery. We have already provided the Trustee with the documents he seeks in formal discovery, including the IRS Letter Ruling. The IRS Letter Ruling, cancelled checks to the charitable beneficiaries, trust documents, CRUT #1 tax returns and other documents were provided to the Trustee on June 23, 2010.

THE COMPLAINT AND DISCOVERY

The amended complaint attached to the Trustee's letter demonstrates that there are only three transactions into and out of the David Markin Charitable Remainder Unitrust #1. These are not in dispute. However, the Trustee's discovery served on the afternoon of March 3rd is directed primarily to establishing that the transactions occurred and that Bernard L. Madoff conducted a Ponzi scheme. Copies of the Trustee's **standard** requests for admission, interrogatories and production of documents are annexed hereto.

The Trustee has produced the documents it has in the file with respect to the CRUT #1 and there is nothing new or different left for the CRUT #1 to produce in response to these requests. Discovery has already occurred.

THE SUMMARY JUDGMENT MOTION

The two legal issues raised in the Trustee's letter--whether Mr. Markin is a subsequent transferee and whether he gave value to the CRUT #1 in exchange for his distribution--are ready for determination now.

We remain convinced that the adversary proceeding can be resolved on this defense, without delving into the other affirmative defenses in the answer to the complaint. The facts set forth above are evidenced by the trust document, the Letter Ruling, the checks from the CRUT #1 account and tax documents evidencing the distributions from the CRUT account and its holdings and the Complaint --all of which the Trustee has reviewed.

We renew our request for leave to file the motion for summary judgment.

Accordingly, we are prepared to file a motion for summary judgment based upon the above.

Respectfully submitted,



Carole Neville

cc: Keith R. Murphy (*via email*)
Tatiana Markel (*via email*)
Mitchell Schepps (*via email*)